

# United States Senate

WASHINGTON, DC 20510

October 16, 2018

Amazon.com Inc.  
Jeffrey P. Bezos, CEO  
410 Terry Avenue North  
Seattle, WA 98109

Dear Mr. Bezos:

We write to express our alarm at recent reports that your company is distributing anti-union materials to Whole Foods managers that directs and encourages potentially illegal interference with the rights of thousands of workers.

According to a recent report, Amazon sent a 45-minute video to “team leaders” at Whole Foods, Amazon’s recently acquired subsidiary. This video, which its narrator states is “specifically designed to give you the tools that you need for success when it comes to labor organizing,” expresses explicit opposition to union organizing on the part of Whole Foods employees and makes several statements that appear to direct supervisors to take actions that are illegal under the National Labor Relations Act (NLRA).<sup>1</sup> We write to request information about these anti-union materials and their development and use.

Soon after this video was revealed, you announced that, in response to criticism and organizing efforts by workers, activists, and members of Congress, Amazon will raise the minimum wage for all of its full-time, part-time, temporary, and seasonal employees in the United States, including those at Whole Foods, to \$15 per hour.<sup>2</sup> You also announced that Amazon will advocate for a higher federal minimum wage in Washington, D.C., because “we believe \$7.25 is too low.”<sup>3</sup> We appreciate your attention to the importance of paying workers’ a living wage and the fact that the current federal minimum wage is outrageously low—unable even to keep a full-time, single parent above the poverty line. But it is important to recognize that workers’ rights do not stop at the minimum wage, and raising the pay of your lowest-paid workers, while important, does not give you a free pass to engage in potentially illegal anti-union behavior.<sup>4</sup>

It is also important to note that, absent a union, Amazon remains free to unilaterally cancel the increase or make other cuts to compensation. Unfortunately, Amazon’s recent conduct

---

<sup>1</sup> Gizmodo, “Amazon’s Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video,” Bryan Menegus, September 26, 2018, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>.

<sup>2</sup> Amazon, “Amazon Raises Minimum Wage to \$15 for All U.S. Employees,” blog post, October 2, 2018, <https://blog.aboutamazon.com/working-at-amazon/amazon-raises-minimum-wage-to-15-for-all-us-employees>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

provides a telling example: immediately after announcing the wage increase, Amazon cut bonuses and eliminated stock options for warehouse workers.<sup>5</sup> Amazon believes, with those cuts, “compensation will be more immediate and predictable.” While predictability of expenses may be in Amazon’s interest, NLRA rights give workers the agency to decide what is in their *own* interest and secure improvements through collective bargaining. For some workers, it appears the cuts will swallow the entire wage increase, leaving them with lower compensation than they had before getting a “raise.”<sup>6</sup> When workers have the benefit of union representation, such unilaterally dictated changes are illegal.<sup>7</sup>

The NLRA guarantees workers the right to join together in unions, bargain collectively and engage in other concerted activities for mutual aid or protection.<sup>8</sup> Section 8(a)(1) makes it unlawful for employers “to interfere with, restrain, or coerce employees” in the exercise of those rights.<sup>9</sup> The National Labor Relations Board (NLRB) provides examples of illegal employer actions, including “threaten[ing] employees with adverse consequences, such as closing the workplace, loss of benefits, or more onerous working conditions, if they support a union, engage in union activity, or select a union to represent them.”<sup>10</sup>

If recent reporting regarding the anti-union video that Amazon distributed to Whole Foods management is true, your company appears to be instructing supervisors to violate the NLRA. The video reportedly tells supervisors, “you might need to talk about how having a union could hurt innovation which could hurt customer obsession which could ultimately threaten the building’s continued existence.”<sup>11</sup> It is unclear how this statement could be reasonably interpreted as anything other than a threat that an employee’s workplace may close if he or she supports a union or engages in union activity.<sup>12</sup>

The video also reportedly suggests that Whole Foods’s supervisors treat legally protected activities—such as the “use of words associated with unions or union-led movements like living wage,” “increased associate negativity, anger, or confrontation,” or even “any other associate behavior that is out of character”—as “warning signs” of union activity. Perhaps most distressing, the “warning signs” include workers advocating for each other and forming

---

<sup>5</sup> Associated Press, “Amazon to cut bonuses, stock benefits as it raises wages,” Joseph Pisani, October 3, 2018, <https://www.nytimes.com/aponline/2018/10/03/us/ap-us-amazon-wages.html>.

<sup>6</sup> Yahoo Finance, “Some Amazon employees say they will make less after the raise,” Krystal Hu, October 3, 2018, <https://finance.yahoo.com/news/amazon-employees-say-will-make-less-raise-174028353.html>.

<sup>7</sup> *NLRB v. Katz*, 369 U.S. 736, 747 (1962).

<sup>8</sup> 29 U.S.C. § 157.

<sup>9</sup> 29 U.S.C. § 158(a).

<sup>10</sup> National Labor Relations Board, “Interfering with employee rights (Section 7 & 8(a)(1)),” <https://www.nlr.gov/rights-we-protect/whats-law/employers/interfering-employee-rights-section-7-8a>].

<sup>11</sup> Gizmodo, “Amazon’s Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video,” Bryan Menegus, September 26, 2018, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>.

<sup>12</sup> See *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 618 (1969) (when an employer “predicts” results of unionizing to employees “the prediction must be carefully phrased on the basis of objective fact to convey an employer’s belief as to demonstrably probable consequences beyond his control . . . . If there is any implication that an employer may or may not take action solely on his own initiative for reasons unrelated to economic necessities and known only to him, the statement is no longer a reasonable prediction based on available facts but a threat of retaliation based on misrepresentation and coercion . . . .”); *id.* at 619-20 (“employees, who are particularly sensitive to rumors of plant closings, take such hints as coercive threats rather than honest forecasts”); *id.* at 617 (when evaluating employer “predictions,” the NLRB “must take into account the economic dependence of the employees on their employers”).

connections with coworkers. Such concerted activity forms the bedrock of federal labor law, and it is U.S. policy to encourage such activity.<sup>13</sup> Because the video also states that “these are signs that must be monitored very closely,”<sup>14</sup> we are concerned that this could result in unlawful surveillance and statements by managers that violate the NLRA. You should note, and your supervisors should be made aware, that “spy[ing] on employees’ union activities,” “creat[ing] the impression that you are spying on employees’ union activities,” or “coercively question[ing] employees about their own or coworkers’ union activities or sympathies,” would also violate the NLRA.<sup>15</sup>

A report on the video indicates that “Amazon teaches managers that, where talking to subordinates about unions is concerned, ‘almost anything you say is lawful.’”<sup>16</sup> Even the most cursory reading of the NLRA would reveal that this statement is patently false. Again, the NLRB provides on its website numerous examples of assertions that an employer could make to an employee in violation of Sections 7 and 8 of the NLRA.<sup>17</sup>

In addition to this anti-union video, the recent reporting contains additional disturbing allegations about actions of Amazon management, which, if true, would also constitute violations of federal labor law. The assertion that “a number of warehouse workers...believed voicing their concerns led to retaliatory scrutiny or firing” is particularly troubling.<sup>18</sup>

Protections for workers to join together in their workplaces to fight for higher wages, stronger benefits, and better conditions—with or without a union—are fundamental to lawful labor-management relations and have been enshrined in federal law for nearly a century. Enforcement of these protections is crucial for ensuring that working people have the basic tools to express themselves and their concerns, to do so collectively with other workers if they choose, and to have meaningful opportunities to fight for a better life for themselves and their families.

Whole Foods’s stated aim to “set the standards of excellence for food retailers”<sup>19</sup> and observation that “our leaders think long term and don’t sacrifice long-term value creation for short-term financial results”<sup>20</sup> are in direct contradiction to what appears to be systematic

---

<sup>13</sup> 29 U.S.C. § 157; 29 U.S.C. § 151.

<sup>14</sup> Yahoo Finance, “Amazon trains Whole Foods to handle workers who want to unionize: leaked video,” Krystal Hu, September 27, 2018, <https://finance.yahoo.com/news/amazon-trains-whole-foods-handle-workers-want-unionize-leaked-video-193918041.html>.

<sup>15</sup> See National Labor Relations Board, “Interfering with employee rights (Section 7 & 8(a)(1)),” <https://www.nlr.gov/rights-we-protect/whats-law/employers/interfering-employee-rights-section-7-8a1>; *McClain & Co.*, 358 NLRB 1070, 1072 (2012) (employers violate the NLRA when “under all of the relevant circumstances, reasonable employees would assume from the statement in question that their union or protected activities had been placed under surveillance.”).

<sup>16</sup> Gizmodo, “Amazon’s Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video,” Bryan Menegus, September 26, 2018, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>.

<sup>17</sup> National Labor Relations Board, “Interfering with employee rights (Section 7 & 8(a)(1)),” <https://www.nlr.gov/rights-we-protect/whats-law/employers/interfering-employee-rights-section-7-8a1>.

<sup>18</sup> Gizmodo, “Amazon’s Aggressive Anti-Union Tactics Revealed in Leaked 45-Minute Video,” Bryan Menegus, September 26, 2018, <https://gizmodo.com/amazons-aggressive-anti-union-tactics-revealed-in-leake-1829305201>.

<sup>19</sup> Whole Foods Market, “Declaration of Independence,” <https://www.wholefoodsmarket.com/mission-values/core-values/declaration-interdependence>.

<sup>20</sup> Whole Foods Market, “Our Leadership Principles,” <https://www.wholefoodsmarket.com/our-leadership-principles>.


incitement of supervisors violating workers' rights by illegally interfering with their organizing activities.

In order to better understand the development and deployment of Amazon and Whole Foods's anti-union materials and activities, we ask that you provide the following information no later than November 1, 2018.

1. Please provide the full video, and its written script, reported by Gizmodo on September 26, 2018 and referenced above.
  - a. Please provide a list of all Whole Foods locations where supervisors were sent and instructed to view the video.
2. Please list any law firms or consulting companies external to Amazon that assisted with the development of the aforementioned video or other tactics meant to prevent or dissuade Whole Foods employees from forming or joining a union. Please include the time period of Amazon's engagement with those companies, along with a description of the services they provided.
3. Please provide copies of any other materials distributed to Whole Foods "team leaders" relevant to organizing activities, or "warning signs" of such activities, on the part of Whole Foods employees.
4. What specific steps is Amazon and/or Whole Foods leadership taking to ensure that, in the course of supervising employees, "team leaders" do not violate federal labor law by, for example, spying on employee' union activities or threatening retaliation, expressly or by implication, against employees who join a union or engage in other protected activities?
5. Are reports that Amazon workers were fired or received "retaliatory scrutiny" for expressing concerns about working conditions true? What steps have you taken to investigate these allegations, and what did you find?

Thank you for your attention to this important matter.

Sincerely,



---

Elizabeth Warren  
United States Senator



---

Bernard Sanders  
United States Senator